

SEP 08 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JESSE VAN MYERS,

Plaintiff - Appellant,

v.

MICHAEL JOHANNS,

Defendant - Appellee.

No. 07-16959

D.C. No. CV-07-00273-JAT

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, District Judge, Presiding

Submitted August 26, 2008^{**}

Before: SCHROEDER, KLEINFELD, and IKUTA, Circuit Judges.

Jesse Van Myers appeals pro se from the district court's order denying his motion to reconsider its order dismissing his action without prejudice for failure to

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

serve process in a timely fashion under Fed. R. Civ. P. 4(m). We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Latshaw v. Trainer Wortham & Co.*, 452 F.3d 1097, 1100 (9th Cir. 2006). We affirm.

The district court did not abuse its discretion in denying Myers' motion in light of his failure to explain why he did not comply with the district court's prior order granting him an additional sixty days to complete service upon the defendants. *See id.* at 1100-04 (discussing the basis for relief under Fed. R. Civ. P. 60(b)).

AFFIRMED.